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8 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. R-2009

12 DARRELL SCOTT ANDERSON  
13 46865 Skyline Ridge Road  
Coarsegold, CA 93614

**A C C U S A T I O N**

14 Respiratory Care Practitioner License No. 15691

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Stephanie Nunez (Complainant) brings this Accusation solely in her official  
20 capacity as the Executive Officer of the Respiratory Care Board of California, Department of  
21 Consumer Affairs.

22 2. On or about September 22, 1992, the Respiratory Care Board issued  
23 Respiratory Care Practitioner License Number 15691 to Darrell Scott Anderson(Respondent).  
24 The Respiratory Care Practitioner License was in full force and effect at all times relevant to the  
25 charges brought herein and will expire on June 30, 2006, unless renewed.

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1           8.       Section 3752.6 of the Code states:

2           “For purposes of Division 1.5 (commencing with Section 475), and this chapter  
3 [the Respiratory Care Practice Act], a crime involving sexual misconduct or attempted  
4 sexual misconduct, whether or not with a patient, shall be considered a crime substantially  
5 related to the qualifications, functions, or duties of a respiratory care practitioner.”

6           9.       Section 3752.7 of the Code states:

7           “Notwithstanding Section 3750, any proposed decision or decision issued under  
8 this chapter [Chapter 8.3, the Respiratory Care Practice Act] in accordance with the  
9 procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3  
10 of Title 2 of the Government Code, that contains any finding of fact that the licensee or  
11 registrant engaged in any act of sexual contact, as defined in Section 729, with a patient, or  
12 has committed an act or been convicted of a sex offense as defined in Section 44010 of the  
13 Education Code, shall contain an order of revocation. The revocation shall not be stayed  
14 by the administrative law judge. For purposes of this section, the patient shall no longer be  
15 considered a patient of the respiratory care practitioner when the order for respiratory  
16 procedures is terminated, discontinued, or not renewed by the prescribing physician and  
17 surgeon.”

18          10.       Section 3755 of the Code states:

19          “The board may take action against any respiratory care practitioner who is charged  
20 with unprofessional conduct in administering, or attempting to administer, direct or indirect  
21 respiratory care. Unprofessional conduct includes, but is not limited to, repeated acts of  
22 clearly administering directly or indirectly inappropriate or unsafe respiratory care  
23 procedures, protocols, therapeutic regimens, or diagnostic testing or monitoring techniques,  
24 and violation of any provision of Section 3750. The board may determine unprofessional  
25 conduct involving any and all aspects of respiratory care performed by anyone licensed as  
26 a respiratory care practitioner.”

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28          11.       California Code of Regulations, title 16, section 1399.370, states:

“For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

“(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Act.”

## COST RECOVERY

12. Section 3753.5, subdivision (a) of the Code states:

"In any order issued in resolution of a disciplinary proceeding before the board, the board or the administrative law judge may direct any practitioner or applicant found to have committed a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and prosecution of the case."

13. Section 3753.7 of the Code states:

"For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees."

14. Section 3753.1 of the Code states:

"(a) An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation. "

## FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

15. Respondent is subject to disciplinary action under sections 3750(j) [corrupt act] and 3755 [unprofessional conduct] in that a criminal complaint was filed against him, alleging that he was in possession of child pornography, and also knowingly received and/or distributed material involving the sexual exploitation of children in violation of Title 18, U.S.C. sections

1 2252(a)(2) and 2252(a)(4). The circumstances are as follows:

2 16. On or about January 6, 2006, Mike Prado, Special Agent for the U.S.  
3 Immigration and Customs Enforcement, U.S. Department of Homeland Security, initiated a federal  
4 child pornography investigation of respondent, who was suspected to be the recipient of child  
5 pornography via electronic correspondence.

6 17. Agent Prado was provided with information that a subject in Riverside,  
7 California was suspected of receiving and distributing, via email, images of child pornography. A  
8 forensic computer examination of the Riverside suspect's computer led Agent Prado to an  
9 individual using a Yahoo! E-mail address to trade images of child pornography. Further  
10 investigation revealed that respondent was the individual using the Yahoo! E-mail address. Agent  
11 Prado determined that respondent was employed as a respiratory therapist at Valley Children's  
12 Hospital in Madera, California, and had access to children as part of his professional duties. Given  
13 respondent's access to children through his job, Agent Prado obtained a search warrant at the  
14 earliest possible date.

15 18. On January 12, 2006, federal agents along with the Fresno County and  
16 Madera County Sheriff's Department, conducted a search of respondent's residence, pursuant to a  
17 federal search warrant. Respondent arrived soon after the law enforcement officials arrived at his  
18 residence. Respondent was given his Miranda rights, and waived them verbally and in writing.  
19 He made many incriminating statements, and admitted that he had communicated via the internet to  
20 obtain images of child pornography. He admitted that he had a collection of child pornography  
21 which he had accumulated over a period of several years, and he directed the officers to the  
22 locations in his house and computer where it was stored. The law enforcement agents seized  
23 computer hard drives and computer storage media containing child pornography images.

24 19. Based on the interview of respondent and the materials seized in his  
25 residence, respondent was placed under arrest for violations of 18 U.S.C. Section 2252(a)(2),  
26 receiving and/or distributing material involving sexual exploitation of minors and 18 U.S.C.  
27 Section 2252(a)(4), possession of books, periodicals, films, videotapes, or other matter which  
28 contains any visual depiction involving the use of a minor engaging in sexually explicit conduct

that has been mailed, shipped or transported by any means including computer.

20. On January 12, 2006, a criminal complaint titled United States of America vs. Darrell Scott Anderson, case no. 1:06MJ00009 was filed in the United States District Court, Eastern District of California.

21. On January 19, 2006, a criminal indictment case no. 1:06CR00017 was filed by Grand Jury. Count One charged respondent with a violation of 18 U.S.C. section 2252(a)(2), receipt or distribution of material involving sexual exploitation of minors. Count Two charged respondent with a violation of 18 U.S.C. Section 2252(a)(4), possession of material involving the sexual exploitation of minors through the use of interstate commerce.

22. On January 20, 2006, an Order Setting Conditions of Release was filed. Respondent entered a plea of not guilty. He posted \$10,000 cash bond, was released on his own recognizance, and ordered to appear at U.S. District Court in Fresno on February 6, 2006. It was further ordered that respondent was placed in the custody of Lynnette Anderson and placed under a home incarceration with terms and conditions including an order to stay away from any person under the age of 18, not to use or possess a computer, not view or possess child pornography, not access the internet, and surrender his passport.

23. On or about February 27, 2006, Administrative Law Judge Jaime Roman granted the Board's petition for an Interim Suspension Order.

24. Respondent's actions of possessing child pornography and knowingly receiving and/or distributing material involving the sexual exploitation of children are in violation of code sections 3750(j) [corrupt act] and 3755 [unprofessional conduct], and his license is subject to discipline.

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## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein

1 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

2 1. Revoking or suspending Respiratory Care Practitioner License Number  
3 15691, issued to DARRELL SCOTT ANDERSON;

4 2. Ordering DARRELL SCOTT ANDERSON to pay the Respiratory Care  
5 Board the costs of investigation and enforcement of this case, and if placed on probation, the costs  
6 of probation monitoring;

7 3. Taking such other and further action as deemed necessary and proper.

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9 DATED: March 10, 2006  
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11 Original signed by Liane Zimmerman for: \_\_\_\_\_  
12 STEPHANIE NUNEZ  
13 Executive Officer  
14 Respiratory Care Board of California  
15 Department of Consumer Affairs  
16 State of California  
17 Complainant  
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